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DECISION



Boyle  
Pace  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20546

FILE: R-192335

DATE: August 18, 1978

MATTER OF:

S.A.F.E. Export Corporation

DIGEST:

Protest to GAO was not filed within 10 working days of protester's actual notice of agency denial of protest as required by GAO Bid Protest Procedures, 4 C.F.R. part 20 (1977). Accordingly, protest is untimely and will not be considered on merits.

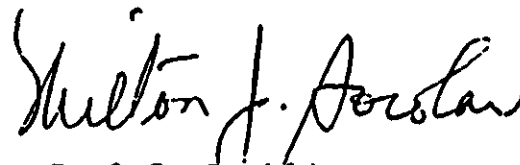
S.A.F.E. Export Corporation (S.A.F.E.) initially sought resolution of its complaint--concerning contract No. 8670-800674 for smoke detectors--with the Department of State, the contracting agency. By letter dated May 17, 1978, the contracting officer advised S.A.F.E. that (1) based on a report prepared by the National Bureau of Standards (NBS), S.A.F.E.'s smoke detector did not meet the specifications set forth in the solicitation, (2) clearances for installation of battery-operated, ionization-type detectors are not required in Bonn, Germany, and (3) no investigation of an unnamed Government employee's alleged ownership interest in the award would be undertaken by the contracting agency.

By letter dated June 26, 1978, to the contracting agency, S.A.F.E. states that (1) it objected to the smoke detector specification because it contained characteristics peculiar to only one manufacturer, (2) it disagrees with the contracting officer's interpretation of the NBS report, and (3) since it submitted the lowest offer and since award was made to another firm, the contracting agency was requested to forward S.A.F.E.'s protest to our Office. S.A.F.E. also protested directly to our Office by letter dated June 26, 1978. We received the protest on July 3, 1978.

Our Bid Protest Procedures, at 4 C.F.R. § 20.2(a) (1977), require that matters protested initially to the procuring agency must be subsequently protested to this Office within 10 working days from the time that the protester receives actual or constructive notice of the initial adverse agency action. Therefore, since S.A.F.E. did not protest here within 10 working days after receipt of the contracting officer's May 17, 1978, letter, S.A.F.E.'s protest is untimely and will not be considered on the merits.

Protest dismissed.

Although we have not considered S.A.F.E.'s protest on the merits, four other competitors of S.A.F.E. on the instant procurement filed timely protests that were considered on the merits. One decision was rendered on those four protests, Smoke Detectors, B-191459, August 1, 1978. There we concluded that (1) the RFP failed to disclose specification feature F-3 with sufficient particularity to allow equality of competition, (2) the procuring agency improperly excluded five brands of smoke detectors for failure to meet purely theoretical standards, and (3) the procuring agency improperly excluded proposals from the competitive range based on a Bureau of Standards report which was inconclusive and factually inaccurate. State advised our Office that the contract had been substantially performed and, therefore, we recommended that the option for additional quantities not be exercised and that future solicitations clearly portray reasonable specification features.

  
for Paul G. Dembling  
General Counsel